

IN THE  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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UNITED STATES OF AMERICA ex rel. )  
ROOSEVELT DAVIS, )  
 )  
Petitioner, )  
 )  
v. ) No. 08 C 3710  
 )  
GENE JUNGWIRTH,<sup>1</sup> ) The Honorable  
 ) George W. Lindberg,  
Respondent. ) Judge Presiding.

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**MOTION TO DISMISS PETITIONER'S  
PETITION FOR A WRIT OF HABEAS CORPUS WITHOUT PREJUDICE  
FOR FAILURE TO EXHAUST AVAILABLE STATE COURT REMEDIES**

Pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, Rule 7(b) of the Federal Rules of Civil Procedure, 28 U.S.C.

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<sup>1</sup> Petitioner was placed on Mandatory Supervised Release (MSR) on June 25, 2008 and is currently scheduled to be released from MSR on June 25, 2010. Accordingly, petitioner's current custodian is Jesse Montgomery, Acting Chief of Parole, Illinois Department of Corrections (IDOC), and therefore Mr. Montgomery should be substituted as the proper respondent in this matter. See Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts; Fed. R. Civ. P. 25(d)(1); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citing *Hogan v. Hanks*, 97 F.3d 189, 190 (7th Cir. 1996)); *Bridges v. Chambers*; 425 F.3d 1048, 1049-50 (7th Cir. 2005).

Petitioner's placement onto MSR, a form of parole, does not deprive this Court of subject matter jurisdiction, nor does it render this case moot because parole is a form of custody. *Virsnieks v. Smith*, 521 F.3d 707, 717 n.14 (7th Cir. 2008) (citing *Jones v. Cunningham*, 371 U.S. 236, 242-43 (1963)); see also *Cochran v. Buss*, 381 F.3d 637, 640-41 (7th Cir. 2004) (per curiam); *A.M. v. Butler*, 360 F.3d 787, 790 n.3 (7th Cir. 2004) (citing 28 U.S.C. § 2254(a); *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)).

§ 2254(b)(1)(A), and this Court's order of July 2, 2008, (Doc. 5), respondent GENE JUNGWIRTH moves to dismiss without prejudice petitioner's petition for a writ of habeas corpus for failure to exhaust available state court remedies, and states the following in support:

## **I. FACTUAL AND PROCEDURAL BACKGROUND**

1. On August 18, 2005, in the Circuit Court of Cook County, petitioner was convicted of possession of a controlled substance and he was sentenced on November 8, 2005 to eight years' imprisonment. (Doc. 1 at 1); (Exhibit A at 4-5). Petitioner appealed his judgment of conviction and sentence to the Appellate Court of Illinois and argued that the State failed to: (1) prove him guilty beyond a reasonable doubt because it failed to establish a sufficient chain of custody of the narcotics; and (2) disclose exculpatory evidence, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). (Doc. 1 at 2; *People v. Davis*, No. 1-05-3786 (Ill. App. Nov. 28, 2007).<sup>2</sup> The appellate court affirmed. (*Id.*) Petitioner filed a petition for leave to appeal to the Supreme Court of Illinois (PLA), which was denied on May 29, 2008. (Doc. 1 at 2). In his § 2254 petition, petitioner states that his PLA raised claims of: (1) ineffective assistance of appellate counsel, (2) failure to establish a proper chain of custody, and (3) the *Brady* claim. (*Id.*) Petitioner has not file a petition for a writ of certiorari in the Supreme Court of the United States. (*Id.*)

2. On March 13, 2007, petitioner filed in the state trial court a motion for

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<sup>2</sup> Petitioner has attached the appellate court's opinion and the order denying his petition for leave to appeal to the Supreme Court of Illinois to his petition.

relief from judgment that was denied on June 25, 2007. (*Id.* at 4). The state trial court docket reflects that a notice of appeal was filed on July 16, 2007. (Exhibit A at 9). Petitioner's appeal is presently pending in the appellate court. (*Id.*); *see also* (Doc. 1 at 4) ("I am currently awaiting appeal on my petition for relief from judgment which appellate attorneys are awaiting to file due to not having all of the record.").

3. On June 30, 2008, petitioner filed in this Court a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, raising seven ineffective assistance of trial and appellate counsel arguments. (Doc. 1). On July 2, 2008, this Court ordered that respondent answer or otherwise plead by July 23, 2008. (Doc. 5).

4. In support of this motion, respondent attaches the following exhibit: Exhibit A: Docket Sheet, *People v. Davis*, No. 05 CR 2672 (Circuit Court of Cook County).

**II. The Petition Should Be Dismissed Without Prejudice Because Petitioner Has Not Exhausted His State Court Remedies.**

"Where state remedies remain available to a habeas petitioner who has not fairly presented his constitutional claim to the state court, the exhaustion doctrine precludes a federal court from granting him relief on that claim: although a federal court now has the option of denying the claim on its merits, 28 U.S.C. § 2254(b)(2), it must otherwise dismiss his habeas petition without prejudice so that the petitioner may return to state court in order to litigate the claim." *Perruquet v. Briley*, 390 F.3d 505, 514 (7th Cir. 2004) (citing 28 U.S.C. § 2254(b)(1)(A); *Castille v. Peoples*, 489 U.S. 346, 349 (1989); *Rose v. Lundy*, 455 U.S. 509, 522 (1982)); *see also*

*Muhammad v. Close*, 540 U.S. 749, 751 (2004) (per curiam) (“Federal petitions for habeas corpus may be granted only after other avenues of relief have been exhausted.”) (citations omitted). Section 2254(b)’s exhaustion requirement “ensures that the state courts have the opportunity [to fully] consider federal-law challenges” in the first instance. *Duncan v. Walker*, 533 U.S. 167, 178 (2001) (citing *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999); *Rose*, 455 U.S. at 518-19).

Petitioner raises seven ineffective assistance of counsel arguments in his present federal habeas petition. These claims have not been exhausted in the state courts, and therefore dismissal without prejudice is the appropriate resolution. Petitioner has an available state court remedy to assert his claims of federal constitutional error: a petition filed pursuant to the Illinois Post-Conviction Hearing Act (Act), 725 ILCS 5/122-1 *et seq.* Under the Act, a person may obtain relief if he or she “asserts that in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both.” 725 ILCS 5/122-1(a)(1); *People v. Easley*, 736 N.E.2d 975, 984 (Ill. 2000) (“A proceeding brought under the [Act] is not an appeal of a defendant’s underlying judgment. Rather, it is a collateral attack on the judgment. The purpose of the proceeding is to resolve allegations that constitutional violations occurred at trial, when those allegations have not been, and could not have been, adjudicated previously.”); *see also People v. Pack*, 862 N.E.2d 938, 942 (Ill. 2007) (citing *People v. Correa*, 485 N.E.2d 307, 309

(Ill. 1985) (holding that individual on mandatory supervised release could file a postconviction petition).

The Act requires that a petition be filed no later than six months after the completion of the direct proceedings – in the present case the last day that petitioner could have filed a petition for a writ of certiorari to the Supreme Court of the United States. 725 ILCS 5/122-1(c). Petitioner is currently able to file a petition under the Act because the Act's time limitation has not yet expired. Petitioner's PLA was denied by the Illinois Supreme Court on May 29, 2008. (Doc. 1 at 2). Petitioner has ninety days from the May 29, 2008 to file a petition for a writ of certiorari in the Supreme Court of the United States. SUP. CT. R. 13. Finally, under the Act, petitioner has six additional months after the conclusion of the time period to file the certiorari petition. 725 ILCS 5/122-1(c). Consequently, petitioner has an available state court procedure under the Act to exhaust his federal constitutional claims until February 28, 2009. The present habeas petition should be dismissed without prejudice so that petitioner may return to state court to exhaust his claims under the Act.

Even if, as petitioner alleges, he raised an ineffective assistance of appellate counsel argument in his PLA on direct appeal, and that is the same as one raised in the present petition, this would not be sufficient to exhaust the issue in state court for purposes of federal habeas review. *See United States ex rel. Johnson v. Roth*, No. 96 C 4664, 1997 WL 83302, at \*2 (N.D. Ill. Feb. 19, 1997) (citing *Crump v. Lane*, 807 F.2d 1394, 1396 (7th Cir. 1986); *People v. Vance*, 390 N.E.2d 867, 872 (Ill. 1979)

(noting that a denial of leave to appeal to the Supreme Court of Illinois is not a decision on the merits satisfying the exhaustion requirement)). And the PLA, of course, would not present any other ineffective assistance of counsel claims. Furthermore, petitioner has a pending state court proceeding that is not yet concluded. While petitioner may not be allowed to raise his present federal claims in that presently pending appeal, such a conclusion is premature and should not be reached until the state proceedings conclude. In any event, and most importantly, all of petitioner's claims are unexhausted and he has an available state remedy of the Post-Conviction Hearing Act in which he can assert them. As a result, the proper resolution is to dismiss the present petition without prejudice. *See Arrieta v. Battaglia*, 461 F.3d 861, 866 (7th Cir. 2006) (citing *Rhines v. Weber*, 544 U.S. 269, 277 (2005) (noting that *Rhines* allows for a stay instead of a dismissal in limited circumstance when there is a *mixed* federal petition containing both exhausted and unexhausted claims); *Dolis v. Chambers*, 454 F.3d 721, 724 (7th Cir. 2006). Here, there is no indication in the record that dismissing the present petition without prejudice "would effectively end any chance at federal habeas review" for petitioner, and therefore a stay is not appropriate. *See Dolis*, 454 F.3d at 725 (citing *Pace v. DiGuglielmo*, 545 U.S. 408, 416 (2005); *Newell v. Hanks*, 283 F.3d 827, 834 (7th Cir. 2002); *Post v. Gilmore*, 111 F.3d 556 (7th Cir. 1997)).

## CONCLUSION

This Court should dismiss petitioner's petition for a writ of habeas corpus

without prejudice for failure to exhaust available state court remedies pursuant to 28 U.S.C. § 2254(b)(1)(A). Should this Court deny this motion, respondent requests thirty days from the entry of the Court's order denying the motion to address the merits and any procedural defenses to the claims raised in the petition.

July 22, 2008

Respectfully submitted,

LISA MADIGAN  
Attorney General of Illinois

By: /s/ Charles Redfern  
CHARLES REDFERN, Bar # 6283811  
Assistant Attorney General  
100 W. Randolph Street, 12th Floor  
Chicago, IL 60601-3218  
PHONE: (312) 814-3565  
FAX: (312) 814-2253  
EMAIL: credfern@atg.state.il.us

**CERTIFICATE OF SERVICE**

I certify that on July 22, 2008, I electronically filed respondent's **Motion To Dismiss Petitioner's Petition For A Writ Of Habeas Corpus Without Prejudice For Failure To Exhaust Available State Court Remedies** with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the CM/ECF system and on the same date mailed a copy of this document in via United States Postal Service to the following non-CM/ECF user:

Roosevelt Davis, N73889  
100 Hillcrest Road  
East Moline, Illinois 61244

Roosevelt Davis  
7211 N. Bell, Apt. 1W  
Chicago, Illinois 60645

/s/ Charles Redfern  
CHARLES REDFERN, Bar # 6283811  
Assistant Attorney General  
100 W. Randolph Street, 12th Floor  
Chicago, IL 60601-3218  
PHONE: (312) 814-3565  
FAX: (312) 814-2253  
EMAIL: credfern@atg.state.il.us

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 001

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

## CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

720-570/402 (A) (2) (B) F POSSESS 100<400 GRAMS COC  
The following disposition(s) was/were rendered before the Honorable Judge(s):

01/31/05 IND/INFO-CLK OFFICE-PRES JUDGE ID# CR10091325	02/09/05 1701
02/09/05 CASE ASSIGNED BIEBEL, PAUL JR.	02/09/05 1706
02/09/05 DEFENDANT NOT IN COURT BIEBEL, PAUL JR.	00/00/00
02/09/05 DEFENDANT ON BOND SURIA JR., FRED G.	00/00/00
02/09/05 APPEARANCE FILED SURIA JR., FRED G.	00/00/00
02/09/05 DEFENDANT ARRAIGNED SURIA JR., FRED G.	00/00/00
02/09/05 PLEA OF NOT GUILTY SURIA JR., FRED G.	00/00/00
02/09/05 MOTION FOR DISCOVERY SURIA JR., FRED G.	00/00/00 F 1
02/09/05 DISCOVERY ANSWER FILED SURIA JR., FRED G.	00/00/00 1
02/09/05 O/C ONLY REL DEF ON C/D BOND SURIA JR., FRED G.	00/00/00
02/09/05 BAIL AMOUNT SET SURIA JR., FRED G.	00/00/00 \$ 50000
02/09/05 CONTINUANCE BY AGREEMENT SURIA JR., FRED G.	03/09/05
03/09/05 DEFENDANT IN CUSTODY SURIA JR., FRED G.	00/00/00
03/09/05 PRISONER DATA SHEET TO ISSUE SURIA JR., FRED G.	00/00/00
03/09/05 DEF DEMAND FOR TRIAL SURIA JR., FRED G.	00/00/00

## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
03/09/05 WITNESSES ORDERED TO APPEAR	00/00/00
SURIA JR., FRED G.	
03/09/05 MOTION STATE - CONTINUANCE -MS	04/11/05
SURIA JR., FRED G.	
04/11/05 DEFENDANT IN CUSTODY	00/00/00
SURIA JR., FRED G.	
04/11/05 PRISONER DATA SHEET TO ISSUE	00/00/00
SURIA JR., FRED G.	
04/11/05 MOTION TO WITHDRAW AS ATTORNEY	00/00/00
SURIA JR., FRED G.	
04/11/05 PUBLIC DEFENDER APPOINTED	00/00/00
SURIA JR., FRED G.	
04/11/05 CONTINUANCE BY AGREEMENT	04/25/05
SURIA JR., FRED G.	
04/25/05 DEFENDANT IN CUSTODY	00/00/00
SURIA JR., FRED G.	
04/25/05 PRISONER DATA SHEET TO ISSUE	00/00/00
SURIA JR., FRED G.	
04/25/05 MOTION FOR BAIL REDUCTION	00/00/00 F 2
SURIA JR., FRED G.	
04/25/05 BAIL AMOUNT SET	00/00/00 \$ 30000
SURIA JR., FRED G.	
04/25/05 O/C ONLY REL DEF ON C/D BOND	00/00/00 \$ 30000
SURIA JR., FRED G.	
04/25/05 CONTINUANCE BY AGREEMENT	05/19/05
SURIA JR., FRED G.	
05/19/05 DEFENDANT IN CUSTODY	00/00/00
SURIA JR., FRED G.	
05/19/05 PRISONER DATA SHEET TO ISSUE	00/00/00
SURIA JR., FRED G.	
05/19/05 CONTINUANCE BY AGREEMENT	06/08/05
SURIA JR., FRED G.	
06/08/05 ADMONISH PER SP CT RULE 402	00/00/00
SURIA JR., FRED G.	
06/08/05 DEFENDANT IN CUSTODY	00/00/00
SURIA JR., FRED G.	
06/08/05 PRISONER DATA SHEET TO ISSUE	00/00/00
SURIA JR., FRED G.	

## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION  
 06/08/05 MOTION FOR DISCOVERY 00/00/00 F 2  
 SURIA JR., FRED G.

06/08/05 MOTION TO SUPPRESS EVIDENCE 00/00/00 F 2  
 SURIA JR., FRED G.

06/08/05 MOTION TO QUASH ARREST 00/00/00 F 2  
 SURIA JR., FRED G.

06/08/05 WITNESSES ORDERED TO APPEAR 00/00/00  
 SURIA JR., FRED G.

06/08/05 CHANGE PRIORITY STATUS R 00/00/00  
 SURIA JR., FRED G.

06/08/05 WITNESSES ORDERED TO APPEAR 00/00/00  
 SURIA JR., FRED G.

06/08/05 CONTINUANCE BY AGREEMENT 06/30/05  
 SURIA JR., FRED G.

06/30/05 DEFENDANT IN CUSTODY 00/00/00  
 SURIA JR., FRED G.

06/30/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 SURIA JR., FRED G.

06/30/05 MOTION TO SUPPRESS 00/00/00 D 2  
 SURIA JR., FRED G.

06/30/05 MOTION TO QUASH ARREST 00/00/00 D 2  
 SURIA JR., FRED G.

06/30/05 DEF DEMAND FOR TRIAL 00/00/00  
 SURIA JR., FRED G.

06/30/05 WITNESSES ORDERED TO APPEAR 00/00/00  
 SURIA JR., FRED G.

06/30/05 MOTION STATE - CONTINUANCE -MS 08/04/05  
 SURIA JR., FRED G.

08/04/05 DEFENDANT IN CUSTODY 00/00/00  
 SURIA JR., FRED G.

08/04/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 SURIA JR., FRED G.

08/04/05 DISCOVERY ANSWER FILED 00/00/00 2  
 SURIA JR., FRED G.

08/04/05 DISCOVERY ANSWER FILED SUPPLEMENTAL 00/00/00 1  
 SURIA JR., FRED G.

## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION  
 08/04/05 SPECIAL ORDER 00/00/00  
 SUBPOENA FOE 4 OFFICERS FILED  
 SURIA JR., FRED G.  
 08/04/05 WITNESSES ORDERED TO APPEAR 00/00/00  
 SURIA JR., FRED G.  
 08/04/05 MOTION DEFT - CONTINUANCE - MD 08/15/05  
 SURIA JR., FRED G.  
 08/15/05 DEFENDANT IN CUSTODY 00/00/00  
 SURIA JR., FRED G.  
 08/15/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 SURIA JR., FRED G.  
 08/15/05 CONTINUANCE BY AGREEMENT 08/17/05  
 SURIA JR., FRED G.  
 08/17/05 DEFENDANT IN CUSTODY 00/00/00  
 SURIA JR., FRED G.  
 08/17/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 SURIA JR., FRED G.  
 08/17/05 TRANSFERRED 08/17/05 1726  
 SURIA JR., FRED G.  
 08/17/05 TRANSFERRED 08/17/05 1750  
 SURIA JR., FRED G.  
 08/17/05 TRANSFERRED 08/17/05 1750  
 TOOMIN, MICHAEL P.  
 08/18/05 DEFENDANT IN CUSTODY 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/18/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/18/05 VERDICT OF GUILTY C001 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/18/05 BAIL REVOKED 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/18/05 PRE-SENT INVEST. ORD, CONTD TO 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/18/05 CHANGE PRIORITY STATUS M 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/18/05 CONTINUANCE BY ORDER OF COURT 09/20/05  
 BROSNAHAN, MARY MARGARET

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

VS

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ROOSEVELT DAVIS

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION  
 09/20/05 DEFENDANT IN CUSTODY 00/00/00  
 BROSNAHAN, MARY MARGARET  
 09/20/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 BROSNAHAN, MARY MARGARET  
 09/20/05 SPECIAL ORDER 00/00/00  
 PRO SE MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL DENIED  
 BROSNAHAN, MARY MARGARET  
 09/20/05 CONTINUANCE BY AGREEMENT 10/06/05  
 BROSNAHAN, MARY MARGARET  
 10/06/05 DEFENDANT IN CUSTODY 00/00/00  
 BROSNAHAN, MARY MARGARET  
 10/06/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 BROSNAHAN, MARY MARGARET  
 10/06/05 CONTINUANCE BY ORDER OF COURT 10/24/05  
 BROSNAHAN, MARY MARGARET  
 10/24/05 CASE ASSIGNED 10/24/05 1750  
 FORD, NICHOLAS R.  
 10/24/05 DEFENDANT IN CUSTODY 00/00/00  
 PALMER, STUART E.  
 10/24/05 PRISONER DATA SHEET TO ISSUE 00/00/00  
 PALMER, STUART E.  
 10/24/05 CONTINUANCE BY AGREEMENT 11/08/05  
 PALMER, STUART E.  
 11/08/05 DEFENDANT IN CUSTODY 00/00/00  
 BROSNAHAN, MARY MARGARET  
 11/08/05 MOTION DEFENDANT - NEW TRIAL 00/00/00 D 2  
 BROSNAHAN, MARY MARGARET  
 11/08/05 DEF SENTENCED ILLINOIS DOC C001 00/00/00  
 8 YRS  
 BROSNAHAN, MARY MARGARET  
 11/08/05 CREDIT DEFENDANT FOR TIME SERV 00/00/00  
 313 DYS  
 BROSNAHAN, MARY MARGARET  
 11/08/05 DEF ADVISED OF RIGHT TO APPEAL 00/00/00  
 BROSNAHAN, MARY MARGARET  
 11/08/05 FINES COSTS FEES PER DRFT ORD 00/00/00  
 BROSNAHAN, MARY MARGARET \$ 2629

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

## CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION  
 11/08/05 MOTION TO REDUCE SENTENCE 00/00/00  
 BROSNAHAN, MARY MARGARET  
 11/08/05 CHANGE PRIORITY STATUS M 00/00/00  
 BROSNAHAN, MARY MARGARET  
 11/08/05 NOTICE OF APPEAL FILED, TRNSFR 00/00/00  
 11/15/05 NOTICE OF NOTICE OF APP MAILED 00/00/00  
 11/15/05 HEARING DATE ASSIGNED 11/18/05 1713  
 11/18/05 ILL STATE APPELLATE DEF APPTD 00/00/00  
 BIEBEL, PAUL JR.  
 11/18/05 O/C FREE REPT OF PROCD ORD N/C 00/00/00  
 BIEBEL, PAUL JR.  
 11/18/05 MEMO OF ORDS & NOA PICKED-UP 00/00/00  
 BIEBEL, PAUL JR.  
 12/01/05 APPELLATE COURT NUMBER ASGND 00/00/00 05-3786  
 01/12/06 CLR RECD BY APP COUNSEL 00/00/00  
 PUBLIC DEFENDER - ONE VOLUME  
 04/21/06 REPT OF PRCDS ORD FR CRT RPT 00/00/00  
 06/29/06 SPECIAL ORDER 00/00/00 F 2  
 MOTION-RELIEF OF JUDGEMENT.  
 06/29/06 HEARING DATE ASSIGNED 07/06/06 1750  
 07/13/06 M/D PETN FOR TRNSCT, COMLAW RCD 00/00/00 F 2  
 07/13/06 HEARING DATE ASSIGNED 07/19/06 1716  
 07/19/06 CONTINUANCE BY ORDER OF COURT 07/21/06  
 BROSNAHAN, MARY MARGARET  
 07/21/06 CONTINUANCE BY ORDER OF COURT 07/27/06  
 BROSNAHAN, MARY MARGARET  
 07/27/06 CONTINUANCE BY ORDER OF COURT 08/03/06  
 BROSNAHAN, MARY MARGARET  
 08/03/06 DEFENDANT ON BOND 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/03/06 CONTINUANCE BY AGREEMENT, 08/15/06  
 BROSNAHAN, MARY MARGARET  
 08/15/06 DEFENDANT ON BOND 00/00/00  
 BROSNAHAN, MARY MARGARET  
 08/15/06 SPECIAL ORDER  
 MOTION REINSTATE DEFENSE PETITION/POST CONVICTION  
 BROSNAHAN, MARY MARGARET

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

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I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION 08/15/06 SPECIAL ORDER 00/00/00  
 DEFENDANT HAS 45 DAYS TO RESPOND  
 BROSNAHAN, MARY MARGARET  
 08/15/06 CONTINUANCE BY ORDER OF COURT 10/05/06  
 BROSNAHAN, MARY MARGARET  
 10/05/06 DEFENDANT NOT IN COURT 00/00/00  
 BROSNAHAN, MARY MARGARET  
 10/05/06 DEFENDANT IN CUSTODY 00/00/00  
 BROSNAHAN, MARY MARGARET  
 10/05/06 SPECIAL ORDER 00/00/00  
 NOTICE DEFT TO RE-CHARACTERIZE HIS PETITION P.C.  
 BROSNAHAN, MARY MARGARET  
 10/05/06 CONTINUANCE BY ORDER OF COURT 11/27/06  
 BROSNAHAN, MARY MARGARET  
 11/03/06 SPECIAL ORDER 00/00/00 F 2  
 MOTION-RESPOND TO COURT JUDGEMENT ORDER.  
 11/03/06 HEARING DATE ASSIGNED 11/27/06 1716  
 11/16/06 SPECIAL ORDER 00/00/00 F 2  
 MOTION-RELEASE TRANSCRIPTS.  
 11/16/06 HEARING DATE ASSIGNED 11/27/06 1716  
 11/27/06 DEFENDANT NOT IN COURT 00/00/00  
 BROSNAHAN, MARY MARGARET  
 11/27/06 SPECIAL ORDER 00/00/00  
 MOTION DENIED CLERK TO NOTIFY  
 BROSNAHAN, MARY MARGARET  
 12/20/06 TRANS PROC REC/FILED CLKS OFF 00/00/00  
 THREE VOLUMES  
 12/21/06 SUPPL REPORT OF PRCD PREPARED 00/00/00  
 THREE VOLUMES  
 03/19/07 SPECIAL ORDER 00/00/00 F 2  
 RELIEF OF JUDGEMENT.  
 03/19/07 HEARING DATE ASSIGNED 03/26/07 1706  
 03/26/07 SPECIAL ORDER 00/00/00  
 ON CALL IN ERROR  
 CLAPS JOSEPH M  
 03/26/07 TRANSFERRED 03/30/07 1716  
 CLAPS JOSEPH M

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS Page 008  
 PEOPLE OF THE STATE OF ILLINOIS  
 VS NUMBER 05CR0267202  
 ROOSEVELT DAVIS

## CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION  
 03/30/07 DEFENDANT NOT IN COURT 00/00/00  
 BROSNAHAN, MARY MARGARET  
 03/30/07 SPECIAL ORDER 00/00/00  
 NO FILE IN COURT  
 BROSNAHAN, MARY MARGARET  
 03/30/07 CONTINUANCE BY ORDER OF COURT 04/09/07  
 BROSNAHAN, MARY MARGARET  
 04/09/07 DEFENDANT NOT IN COURT 00/00/00  
 WOJKOWSKI, GREGORY J.  
 04/09/07 CONTINUANCE BY ORDER OF COURT 04/16/07  
 CLERK HAS ORDER FILE TWICE (NO FILE IN COURT)  
 WOJKOWSKI, GREGORY J.  
 04/16/07 DEFENDANT NOT IN COURT 00/00/00  
 BROSNAHAN, MARY MARGARET  
 04/16/07 CONTINUANCE BY ORDER OF COURT 04/18/07  
 BROSNAHAN, MARY MARGARET  
 04/18/07 DEFENDANT NOT IN COURT 00/00/00  
 BROSNAHAN, MARY MARGARET  
 04/18/07 CONTINUANCE BY ORDER OF COURT 04/20/07  
 BROSNAHAN, MARY MARGARET  
 05/18/07 DEFENDANT NOT IN COURT 00/00/00  
 BROSNAHAN, MARY MARGARET  
 05/18/07 CONTINUANCE BY ORDER OF COURT 06/08/07  
 BROSNAHAN, MARY MARGARET  
 05/31/07 SPECIAL ORDER 00/00/00 F 2  
 STATUS & DISPOSITION.  
 05/31/07 HEARING DATE ASSIGNED 06/08/07 1716  
 06/08/07 DEFENDANT IN CUSTODY 00/00/00  
 FORD, NICHOLAS R.  
 06/08/07 PRISONER DATA SHEET TO ISSUE 00/00/00  
 FORD, NICHOLAS R.  
 06/08/07 CONTINUANCE BY AGREEMENT 06/25/07  
 FORD, NICHOLAS R.  
 06/25/07 SPECIAL ORDER 00/00/00  
 DEFENDANT PRESENT IN OPEN COURT  
 BROSNAHAN, MARY MARGARET  
 06/25/07 SPECIAL ORDER 00/00/00  
 MOTION FOR POST JUDGMENT RELIEF UNDER 2-1401 DENIED  
 BROSNAHAN, MARY MARGARET

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
PEOPLE OF THE STATE OF ILLINOIS

Page 009

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

## CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION  
06/25/07 SPECIAL ORDER 00/00/00

## WRITTEN ORDER TENDERED

BROSNAHAN, MARY MARGARET

07/17/07 NOTICE OF NOTICE OF APP MAILED	00/00/00
07/17/07 HEARING DATE ASSIGNED	07/20/07 1713
07/16/07 NOTICE OF APPEAL FILED, TRNSFR	06/25/07
07/25/07 APPELLATE COURT NUMBER ASGND	00/00/00 07-2012
07/26/07 COMMON LAW RECORD PREPARED ONE VOLUME	00/00/00 07-2012
07/31/07 CLR RECD BY APP COUNSEL STATE APPELLATE DEFENDER - ONE VOLUME	00/00/00 07-2012
08/17/07 REPT OF PRCDS ORD FR CRT RPT	00/00/00
09/21/07 SUPPLEMENTAL CLR PREPARED 05CR0267202 472	00/00/00 07-2012
09/21/07 SUPPLEMENTAL CLR PREPARED 05CR0267202 472	00/00/00 07-2012
09/21/07 SUPPLEMENTAL CLR PREPARED ONE VOLUME SUPPLEMENTAL OF CERTAIN DOCUMENTS	00/00/00 07-2012
09/24/07 SUPPL REC RECD BY APPL COUNSEL STATE APPELLATE DEFENDER - ONE VOLUME	00/00/00 07-2012
03/05/08 TRANS PROC REC/FILED CLKS OFF ONE VOLUME	00/00/00
03/07/08 REPORT OF PROCEEDINGS PREPARED ONE VOLUME	00/00/00 07-2012
03/11/08 REPRT/PROCDs RECD BY APP ATTRY STATE APPELLATE DEFENDER - ONE VOLUME	00/00/00 07-2012
07/09/08 SPECIAL ORDER REQUESTING FREE COPIES OF PRELIMINARY HEARING TRASCRPTS WADAS, KENNETH J.	00/00/00
07/09/08 SUPPL REPORT OF PRCD PREPARED TWO VOLUMES 470	00/00/00 07-2012

I hereby certify that the foregoing has  
been entered of record on the above  
captioned case.

Date 07/10/08



*Dorothy Brown* wb  
DOROTHY BROWN  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY